

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:

Antrim Township
10655 Antrim Church Road
Greencastle, Pennsylvania 17225

Respondent.

**ADMINISTRATIVE ORDER
ON CONSENT**

Docket No. CWA-03-2017-0100DN

I. STATUTORY AUTHORITY

1. The United States Environmental Protection Agency Region (EPA) has made the following findings of fact and issues this Administrative Order on Consent (AOC) to Antrim Township, Pennsylvania (Antrim or Respondent) pursuant to the authority vested in the Administrator of EPA under Section 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1319(a). This authority has been delegated by the Administrator to the Regional Administrator of EPA Region III, and further delegated to the Director, Water Protection Division, Region III.

2. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant (other than dredged or fill material) from a point source into waters of the United States except in compliance with a permit issued pursuant to the National Pollutant Discharge Elimination System (NPDES) program under Section 402 of the Act, 33 U.S.C. § 1342.

3. Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available to her the Administrator finds that any person is in violation of any permit condition or limitation implementing the CWA in a permit issued under Section 402 of the Act, 33 U.S.C. § 1342, she shall issue an Order requiring such person to comply with such requirement.

II. FINDINGS

4. Section 402(a) of the Act, 33 U.S.C. § 1342(a), provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of any pollutant from a point source to the waters of the United States. The discharges are subject to specific terms and conditions as prescribed in the permit. Section 402(b) of the Act, 33 U.S.C. § 1342(b) provides that the Administrator may authorize a state to issue NPDES permits. Pursuant to Section 402(i) of the Act, 33 U.S.C. § 1342(i), EPA retains the authority to take enforcement action for violations of NPDES permits.

5. At all times relevant to this AOC, Respondent owned and/or operated the Antrim Township Sewage Treatment Facility, located in Antrim Township, Greencastle, Franklin County, Pennsylvania, a Publicly Owned Treatment Works (POTW), as that term is defined in 40 C.F.R. § 403.3(q).

6. On September 1, 2011 PADEP issued NPDES Permit No. PA 0080519 to Antrim Township (Permit) with an effective date of September 1, 2011. The Permit expired on August 31, 2016, but has been administratively extended and remains in full force and effect.

7. Section V.A. of the permit, "Industrial Pretreatment Program Implementation," requires: "The permittee shall implement an industrial pretreatment program in accordance with the federal Clean Water Act, The Pennsylvania Clean Streams Law, and the federal General Pretreatment Regulations (40 C.F.R. 403). The program shall also be implemented in accordance with the pretreatment program, and any modifications submitted by the permittee and approved by the Approval Authority." Under the Permit and the regulations EPA is the "Approval Authority." See Permit Section V. H. and 40 C.F.R. § 403.3(c). EPA approved the Antrim pretreatment program on July 23, 2008.

8. The Pretreatment Regulations, at 40 C.F.R. § 403.8(f) provide, and therefore the Permit requires: "A pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures **shall at all times be fully and effectively exercised and implemented.**" (Emphasis added). Included in 40 C.F.R. § 403.8(f) are requirements to:

- a. Identify and locate all possible Industrial Users which might be subject to the POTW Pretreatment Program. See § 403.8(f)(2)(i);
- b. Notify Industrial Users of applicable Pretreatment Standards and all other requirements applicable to it as a result of its status as Industrial User. See § 403.8(f)(2)(iii);
- c. Evaluate whether each Significant Industrial User needs a plan or other action to control Slug Discharges. See § 403.8(f)(2)(iv);

d. Control through Permit, order or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under § 403.3(v), this control shall be achieved through individual permits or equivalent individual control mechanisms issued to each such User... See § 403.8(f)(1)(iii);

e. Permit conditions must include: 1) effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards, categorical pretreatment standards, local limits and state and local law, See § 403.8(f)(1) (iii)(B)(3); 2) self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency and sample type. See § 403.8(f)(1) (iii)(B)(4); and requirements to control Slug Discharges, if determined by the POTW to be necessary. See § 403.8(f)(1)(iii)(B)(6).

f. Carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. See § 403.8(f)(1)(v) and § 403.8(f)(2)(i); and

g. Develop and implement an enforcement response plan (ERP). See § 403.8(f)(5).

9. The Pretreatment Regulations at 40 C.F.R. § 403.3(j) define the term “Industrial User” or “User” (IU) to mean a source of “Indirect Discharge.” “Indirect Discharge” is defined to mean the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b),(c) or (d) of the Act (referring to the statutory authority for pretreatment regulations and making it unlawful to violate such standards). 40 C.F.R. § 403.3(i). A “Significant Industrial User” (SIU), as defined in the pretreatment regulations includes, in pertinent part: “(i) All Industrial Users subject to Categorical Pretreatment Standards under 40 C.F.R. § 403.6 and 40 C.F.R. chapter I, subchapter N, and (ii) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or is designated as such... on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard.” 40 C.F.R. § 403.3(v).

10. The Pretreatment Regulations, and therefore the Permit, require all POTWs with approved pretreatment programs to submit annual reports containing specified information. 40 C.F.R. § 403.12(i).

11. The Pretreatment regulations at 40 C.F.R. § 403.12 set forth reporting requirements for POTWs and IUs. This includes a requirement for POTWs to submit annual reports containing information specified in the regulation. See 40 C.F.R. 403.12(i). In addition, both IUs and POTWs are required to maintain for a minimum of three years any records of

required monitoring activities and results and to make such reports available for inspection and copying by EPA. See 40 C.F.R. § 403.12(o).

12. On July 15, 2014, EPA's duly-authorized representatives conducted a Pretreatment Compliance Audit (PCA) of Antrim's pretreatment program implementation. The Pretreatment Compliance Audit Summary Report (Audit Report) identified a number of deficiencies in the implementation of Antrim's Pretreatment Program.

13. On March 15, 2016 EPA issued an Information Requirement to Antrim under Section 308 of the Clean Water Act, 33 U.S.C §1318. A copy of the Audit Report was sent to Antrim as an attachment to the Information Requirement. Antrim responded to the Information Requirement by letter dated May 18, 2016.

14. Based upon the 2014 Audit and Antrim's response to the Information Requirement EPA has identified the following violations of the CWA, as described below.

III. FINDINGS OF VIOLATION

15. At the time of the Audit, the Respondent had not fully and effectively implemented a pretreatment program, as required by the Permit, including the requirements set forth in 40 C.F. R. § 403.8(f), nor had the Respondent submitted annual reports as required by 40 C.F.R. § 403.12(i) nor had it maintained the records required to be maintained by 40 C.F.R. § 403.12.

A. Failure to correctly issue permits to users

16. The PCA revealed that Grove-Manitowoc Crane was permitted as a non-categorical SIU, but that it discharged wastewater (specifically water containing a phosphoric-acid based chemical), which is regulated under the Metal Finishing Point Source Category and is by definition a categorical SIU subject to 40 C.F.R. Part 433.

17. The PCA revealed that Mountain View Landfill, did not have an industrial user permit under the pretreatment program. The Mountain View Landfill is an SIU, which would require it to have a pretreatment permit.

B. Failure to issue permits that comply with all federal regulations and that are consistent with local limits

18. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(4) require a POTW to develop specific local limits as required in § 403.5(c) (1), or demonstrate that they are not necessary. Antrim has developed local pretreatment limits, which are set forth in its Sewer Use Ordinance (SUO), Chapter 111, Pretreatment Ordinance of Antrim Township (2008). Local limits developed by a POTW are deemed to be Pretreatment Standards. 40 C.F.R. § 403.5(d).

19. The Pretreatment Regulations at 40 C.F.R. 403.8(f)(1)(B)(4) require pretreatment permits to include “Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with § 403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in part 403 of this chapter, categorical Pretreatment Standards, local limits, and State and local law.”

20. The PCA revealed that Antrim’s 2012 compliance inspection report for the Grove Manitowoc Crane facility indicated that a slug discharge control plan was needed. However, the Grove-Manitowoc Crane pretreatment permit did not include a requirement to develop a slug discharge control plan, as required by 40 C.F.R. § 403.8(f)(1)(B)(6).

21. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(1)(B)(6) require that pretreatment permits include a requirement to control Slug Discharges, if determined by the POTW to be necessary.

22. The PCA revealed that the effluent limits for total suspended solids (TSS) in the Grove-Manitowoc Crane and Eldorado Stone pretreatment permits were not consistent with local limits established in the Antrim Sewer Use Ordinance (SUO).

23. The PCA revealed that the Eldorado Stone permit did not include monitoring requirements for carbonaceous biochemical oxygen demand (CBOD). The Antrim SUO includes a local limit for CBOD, and as such a monitoring requirement should be required in the facility pretreatment permit.

24. The PCA revealed that neither the Eldorado Stone nor the Grove-Manitowoc Crane pretreatment permit included complete sampling requirement descriptions (e.g. pollutants to be monitored, sampling location and frequency, sample type), as required by 40 C.F.R. § 403.8(f)(1)(B)(4).

C. Failure to conduct all required compliance sampling and to conduct all required compliance inspections at SIUs

25. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(2)(v) require POTWs with pretreatment programs to “Randomly sample and analyze the effluent from Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards. Inspect and sample the effluent from each Significant Industrial User at least once a year, except as otherwise specified by 40 C.F.R. 403.8(f)(2)(v)(A).”

26. The Pretreatment Regulations at 40 C.F.R. § 403.12 (h) require that sampling and analysis shall be performed “in accordance with the techniques described in [40 C.F.R.] part 136 and amendments thereto.”

27. The PCA revealed that Antrim did not conduct compliance sampling at its permitted SIUs in 2013.

28. The PCA revealed that Antrim, in conducting sampling of its SIUs, used sample analysis methods for cyanide and phenolics that are not consistent with the requirements of 40 C.F.R. Part 136.

29. The PCA revealed that in 2010 and 2014 the compliance sampling results for Eldorado Stone did not contain results for biochemical oxygen demand (BOD) or pH, two of the pollutants limited in the Eldorado Stone permit.

30. The PCA revealed that in 2012 and 2014 the compliance sampling results for Grove-Manitowoc Crane did not contain results for oil and grease, a pollutants limited in the Grove-Manitowoc Crane permit.

31. The PCA revealed that Antrim was unable to provide documentation of any 2013 compliance inspections at Grove-Manitowoc Crane.

32. The PCA revealed that the compliance inspection forms were lacking in the detail required by and were not fully completed in order to meet the criteria of 40 C.F.R. § 403.8(f)(2)(vii).

33. The PCA revealed that the inspection reports for the Eldorado Stone facility were not complete in that they did not indicate whether the facility would require a slug discharge control plan.

D. Failure to implement an Enforcement Response Plan

34. The Pretreatment Regulations at 40 C.F.R. § 403.8(f)(5) provide that “The POTW shall develop and implement an enforcement response plan. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

- (i) Describe how the POTW will investigate instances of noncompliance;
- (ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

- (iii) Identify (by title) the official(s) responsible for each type of response;
- (iv) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in 40 C.F.R. § 403.8 (f)(1) and (f)(2)."

35. The PCA revealed that while Antrim had developed an Enforcement Response Plan (ERP), none of the personnel responsible for administering the pretreatment program were familiar with the ERP.

36. The PCA revealed that Antrim had not taken any enforcement actions for reporting violations, effluent violations, or failure to conduct repeat sampling after permit limits are exceeded, although the SIU reports submitted and reviewed during the PCA indicated that there were such violations.

37. During the PCA several SIU self-monitoring reports were reviewed. None of the reports reviewed contained the certification statement or signature required by 40 C.F.R. § 403.12 (l). Antrim failed to require that the certifications be provided.

38. For the Eldorado Stone self-monitoring reports, Antrim did not investigate or act upon the following reporting or effluent violations: no self-monitoring for BOD and TSS in 2013 as required by the facility's permit; failure to conduct pH monitoring of the treated effluent discharged to the sewer for more than one month in 2013; and effluent exceedances of pH.

39. For the Grove-Manitowoc Crane self-monitoring reports, Antrim did not investigate or act upon the following reporting or effluent violations: CBOD, TSS, total phosphorous, and oil and grease local limit violations from January 2013-June 2014; failure to conduct total phosphorous self-monitoring during the third quarter of 2013; failure to conduct temperature and pH monitoring during December 2013; pH of 1.91 in June 2014; and failure to conduct resampling of total phosphorous after notice of violation for self-monitoring samples collected on April 4, 2013 and March 13, 2014.

40. The PCA revealed that although Antrim's annual reports reflected that there were no SIUs that met the criteria for significant non-compliance (SNC) set forth in 40 C.F.R. § 403.8 (f)(2)(viii), a review of Antrim's records reflected that 1) Grove-Manitowoc Crane was in SNC in 2013 based on effluent violations of CBOD, total phosphorous, and TSS, and the facility's failure to meet all self-monitoring reporting requirements and sampling requirements; and 2) Eldorado Stone was in SNC in 2013 based on failure to sample for BOD and TSS, and the facility's failure to meet all self-monitoring reporting requirements.

E. Failure to maintain all required documentation

41. The Pretreatment Regulations at 40 C.F.R. 403.12(o) provide that; "Any Industrial User and POTW subject to the reporting requirements established in this section shall maintain

records of all information resulting from any monitoring activities required by this section, including documentation associated with Best Management Practices.”

42. During the PCA, Antrim was unable to provide copies of the Enforcement Response Plan, chain-of-custody forms, or Grove-Manitowoc Crane’s compliance inspection reports.

43. Respondent’s failure to fully and effectively develop and implement a pretreatment program as required by its Permit and the Pretreatment Regulations at 40 C.F.R. Part 403 violates the Permit and Section 301 of the Act, 33 U.S.C. § 1311.

IV. ORDER FOR COMPLIANCE

Section 309(a) of the Act, 33 U.S.C. § 1319(a), provides, *inter alia*, that whenever on the basis of any information available to her the Administrator finds that any person is in violation of any condition or limitation which implements Section 1342 of the Act, she shall issue an order requiring such person to comply with such condition or limitation.

Therefore, this _____ day of _____, 2017, Respondent is hereby ORDERED, pursuant to Section 309(a) of the Clean Water Act, 33 U.S.C. §1319(a), and CONSENTS to conduct the following activities:

44. Within seven (7) days of the effective date of this AOC, certify to EPA that Antrim has begun implementing the pretreatment program Enforcement Response Plan.

45. Within ninety (90) days of the effective date of this AOC, develop Standard Operating Procedures (SOPs) to be implemented by Antrim for the following items:

- a. Incorporating local limits and any other Township requirements as defined in Antrim’s SUO will be incorporated into permits.
- b. Evaluating any existing or future businesses for classification as either SIUs or CIUs if applicable.
- c. Ensuring all future compliance monitoring requirements will be met, including a process for ensuring the tracking of completed and tentative inspections.
- d. Reviewing compliance monitoring results to ensure violations are properly identified.
- e. Conducting compliance sampling, to include all procedures for the person sampling to follow.
- f. Reviewing all IU self-monitoring reports and sampling to ensure all compliance issues and potential violations are reviewed, as well as the accuracy and completeness of the reports and sampling.

- g. Documenting compliance monitoring, compliance sampling, facility self-inspections and sampling, and establishing record-keeping procedures to ensure documents are readily available when needed.
- h. Procedures that staff must follow for handling of any Confidential Business Information (CBI) requests.
- i. Procedures for training new staff, and a requirement to have all SOPs provided to new staff.

46. All documents required this Order shall be accompanied by a certification signed by a responsible municipal officer, as defined in 40 C.F.R. § 122.22(d), that reads as follows:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

Signed _____
Title _____

All documents required herein shall be submitted to:

Michael Greenwald
Enforcement Officer
NPDES Enforcement Branch
Mail Code (3WP42)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029

IV. GENERAL PROVISIONS

47. Issuance of this Consent Order is intended to address the violations described herein. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. Further, EPA reserves any existing rights and remedies available to it under the CWA, 33 U.S.C. §1311, et seq., the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction. Further, EPA reserves any rights and remedies available to it under the CWA, the

regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Consent Order, following its effective date (as defined below).

48. This Order does not constitute a waiver or modification of the terms or conditions of any MS4 Permit. Compliance with the terms and conditions of this Consent Order does not relieve Respondent of its obligations to comply with any applicable federal, state, or local law or regulation.

49. For the purposes of this proceeding, the Respondent neither admits nor denies the factual allegations and conclusions of law set forth in this Consent Order.

50. Respondent waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this Consent Order, including any right of judicial review pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.

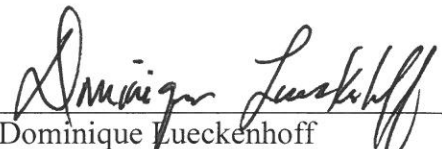
51. By entering into this Consent Order, Respondent does not admit any liability for the civil claims alleged herein.

V. EFFECTIVE DATE

This ORDER is effective upon receipt by Respondent of a fully executed document.

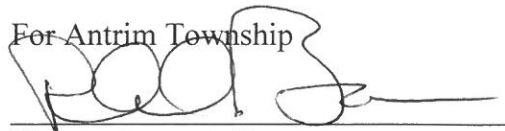
SO ORDERED:

Date: APR 03 2017


Dominique Lueckenhoff
Acting Director, Water Protection Division
U.S. EPA Region III

AGREED TO:

Date: 2-14-17

For Antrim Township

Name: Richard Baer
Title: Chairman, Antrim Township